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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,494	01/22/2002	Thomas Holzel	HOLZ-102	4746
7590	11/07/2003		EXAMINER	
Robert K. Tendler 65 Atlantic Avenue Boston, MA 02110				BENSON, WALTER
		ART UNIT		PAPER NUMBER
		2858		

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>10/054,494</b>	Applicant(s) <b>Thomas Holzel</b>
Examiner <b>Walter Benson</b>	Art Unit <b>2858</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Sep 2, 2003.

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1 and 3-6 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1, 3, 5, and 6 is/are rejected.

7)  Claim(s) 4 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## **FINAL ACTION**

1. Amendment A, received on 9/02/03, has been entered into record. In this amendment, claims 1, 4, and 6 were amended and claim 2 has been canceled.
2. Claims 1, and 3-6 are now pending.

### ***Claim Objections***

3. Claim 4 is objected to because of the following informalities:  
line 2, "attached" is misspelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in

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the United States only if the international application designated the United States and was published under Article 21(2)(a) of such treaty in the English language;

5. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Engstrom. (US Patent No. 6,436,038 B1 and Engstrom hereinafter).

6. As to claims 1 and 6, Engstrom discloses a system for permitting accurate probing of an area with a probe so as to permit viewing of the results of the probing without diverting one's gaze, comprising:

a test instrument [50, Fig. 2];

a probe having a tip and coupled to the test instrument, the probe adapted to access a predetermined point on a test piece (7, Fig. 2);

a remote viewing display coupled to said test instrument and directly attached to the probe [34, Fig. 2] such that the display is within the field of view of an individual holding the probe and looking at the tip thereof, the tip of said probe and said display being viewable by said individual without averting the eyes of said individual; whereby said individual can be apprised of the results of probing by said probe without having to take his eyes off the tip of said probe (col. 7, lines 22-26).

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engstrom in view of Shires (US Patent No. 3,934,195 and Shires hereinafter).

Although the apparatus and method disclosed by Engstrom shows substantial features of the claimed invention (discussed above), it fails to disclose:

where the probe probes electrical signals.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Engstrom, as evidenced by Shires.

In an analogous art, Shires discloses a method and apparatus for displaying information from a test probe having:

where the probe probes electrical signals (col. 3, lines 1-5).

Given the teaching of Shires, a person having ordinary skill in the art at the time the invention was made would have readily recognized the desirability and advantages of modifying Engstrom

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by employing the well known or conventional features of remote measurement technology, such as disclosed by Shires to provide a method and apparatus for portable electric testing devices to display information retrieved from the test probe.

9. Claim 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engstrom in view of Irwin et al. (US Patent No. 6,046,674 and Irwin hereinafter).

Although the apparatus and method disclosed by Engstrom shows substantial features of the claimed invention (discussed above), it fails to disclose:

including a wireless transmitter for transmitting probe results from the test instrument to the display [claim 5].

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Engstrom, as evidenced by Irwin.

In an analogous art, Irwin discloses a method and apparatus for displaying information from a test probe having:

including a wireless transmitter for transmitting probe results from the test instrument to the display [claim 5] (col. 10, lines 50-57) to receive and display data received from the probe. Given the teaching of Irwin, a person having ordinary skill in the art at the time the invention was made would have readily recognized the desirability and advantages of modifying Engstrom by employing the well known or conventional features of remote display technology, such as

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disclosed by Irwin to provide a method and apparatus for controllably displaying information retrieved from the test probe and for the purposes discussed above.

*Allowable Subject Matter*

10. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Applicant's arguments with respect to claims 1, 3-6, filed on 9/02/03 have been considered but are moot in view of the new ground(s) of rejection.

12. In the remarks the applicant argued in substance that:  
(1) the display is directly attached to the probe where the display can be seen as one probes.

13. Examiner respectfully traverses applicant's remarks:

As to point (1), see paragraphs above, Engstrom has been applied as prior art in lieu of Gibson and Jamer.

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14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **Prior Art Made of Record**

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Weber (US Patent No. 5,072,174) discloses a interactive interface to display probe information.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter Benson whose telephone number is (703) 306-4525. The examiner can normally be reached on Monday to Thursday and alternate Fridays from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le, can be reached on (703) 308-0750. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

Walter Benson *WB*  
Patent Examiner

November 3, 2003

*ML*  
N. Le  
Supervisory Patent Examiner  
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